

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

RECEIVED

IN RE:

UNITED CITIES GAS COMPANY, a
Division of ATMOS ENERGY
CORPORATION INCENTIVE PLAN
ACCOUNT (IPA) AUDIT

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) DOCKET NO. 01-00704
) TN REGULATORY AUTHORITY
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UNITED CITIES GAS COMPANY'S RESPONSE TO THE STATEMENT OF
MATERIAL FACTS SUBMITTED BY
THE CONSUMER ADVOCATE AND PROTECTION DIVISION
OF THE ATTORNEY GENERAL'S OFFICE

United Cities Gas Company ("UCG"), pursuant to Tenn. R. Civ. P. 56.03, files this response to the statement of material facts submitted by the Consumer Advocate and Protection Division of the Office of Attorney General ("CAD").¹

CAD Statement No. 1: UCG's inclusion in its PBR of the savings resulting from the negotiated transportation discounted contracts is not consistent with the Final Order. The additional calculations supplementing the current formulas do not conform to the Final Order.

UCG's Response: Denied. See April 10, 2002 Notice of Filing by Energy and Water Division of The Tennessee Regulatory Authority, at Exhibit A, *Compliance Audit Report of United Cities Gas Company's Incentive Plan Account*, pp. 11-16 (setting forth UCG's position that its inclusion of negotiated discounted transportation contracts in the PBR is consistent with the Authority's Final Order in Phase Two, and that the calculations conform to that Order); May 7, 2002 Issues List for Authority Staff Participating as a Party at ¶ 1 (listing the disputed issues for

¹ Contrary to Rule 56.03, the CAD did not submit a separate statement of material facts, but rather included its statement of material facts within its memorandum in support of its motion for partial summary judgment. See CAD Memorandum in Support of Motion for Partial Summary Judgment, pp. 3-4. The CAD's statement also fails to comply with the requirement of Rule 56.03 that "each fact shall be supported by a specific citation to the record."

Authority determination to include the question of whether UCG's treatment of savings from negotiated transportation contracts is consistent with the Phase Two Order); June 5, 2002 Issues List Submitted by United Cities Gas Company at ¶ 1 (listing the disputed issues for Authority determination to include the question of whether UCG's treatment of savings from negotiated transportation contracts is consistent with the Phase Two Order.); September 24, 2002 United Cities Gas Company's Response to Attorney General's First Set of Interrogatories, Requests for Production of Documents and Things, and Requests for Admissions at ¶¶ 1-4 of Requests for Admissions (where UCG refuses to admit that its inclusion in the PBR of the savings resulting from negotiated transportation discounted contracts is inconsistent with the Phase Two Order).

CAD Statement No. 2: The PBR mechanism approved by the TRA for UCG accounts for all transportation costs. Any alleged savings from discounts specified within negotiated transportation contracts are not permitted under UCG's approved PBR.

UCG Response: Denied. See April 10, 2002 Notice of Filing by Energy and Water Division of The Tennessee Regulatory Authority, at Exhibit A, Compliance Audit Report of United Cities Gas Company's Incentive Plan Account, pp. 11-16 (setting forth UCG's position that its inclusion of negotiated discounted transportation contracts in the PBR is consistent with the Authority's Final Order in Phase Two, and that the calculations conform to that Order); May 7, 2002 Issues List for Authority Staff Participating as a Party at ¶ 1 (listing the disputed issues for Authority determination to include the question of whether UCG's treatment of savings from negotiated transportation contracts is consistent with the Phase Two Order); June 5, 2002 Issues List Submitted by United Cities Gas Company at ¶ 1 (listing the disputed issues for Authority determination to include the question of whether UCG's treatment of savings from negotiated transportation contracts is consistent with the Phase Two Order.); September 24, 2002 United

Cities Gas Company's Response to Attorney General's First Set of Interrogatories, Requests for Production of Documents and Things, and Requests for Admissions at ¶¶ 1-4 of Requests for Admissions (where UCG refuses to admit that its inclusion in the PBR of the savings resulting from negotiated transportation discounted contracts is inconsistent with the Phase Two Order).

CAD Statement No. 3: The calculations made by UCG are not consistent with the terms of UCG's incentive plan.

UCG Response: Denied. See April 10, 2002 Notice of Filing by Energy and Water Division of The Tennessee Regulatory Authority, at Exhibit A, *Compliance Audit Report of United Cities Gas Company's Incentive Plan Account*, pp. 11-16 (setting forth UCG's position that its inclusion of negotiated discounted transportation contracts in the PBR is consistent with the Authority's Final Order in Phase Two, and that the calculations conform to that Order); May 7, 2002 Issues List for Authority Staff Participating as a Party at ¶ 1 (listing the disputed issues for Authority determination to include the question of whether UCG's treatment of savings from negotiated transportation contracts is consistent with the Phase Two Order); June 5, 2002 Issues List Submitted by United Cities Gas Company at ¶ 1 (listing the disputed issues for Authority determination to include the question of whether UCG's treatment of savings from negotiated transportation contracts is consistent with the Phase Two Order.); September 24, 2002 United Cities Gas Company's Response to Attorney General's First Set of Interrogatories, Requests for Production of Documents and Things, and Requests for Admissions at ¶¶ 1-4 of Requests for Admissions (where UCG refuses to admit that its inclusion in the PBR of the savings resulting from negotiated transportation discounted contracts is inconsistent with the Phase Two Order).

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CERTIFICATE OF SERVICE

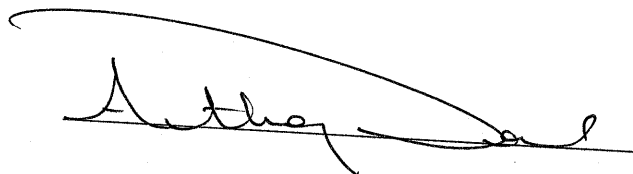
I hereby certify that a true and correct copy of the foregoing was served via facsimile and/or hand delivery on October 21, 2002.

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A handwritten signature in black ink, appearing to read "Anthony", is written over a horizontal line.